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no planning issues
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March 12, 2007

U.S. Fish and Wildlife Service
Northeast Regional Office
ATTN: Ms. Mary Parkin
300 Westgate Center Drive
Hadley, Massachusetts 01035
617.876.6173

Re: 5-year ESA review of eastern Cougar (*Felis concolor cougar*)

Dear Mary Parkin,

This is to alert the U.S. Fish and Wildlife Service to a well-documented, recent encounter on federal government property with a big cat, possibly an eastern Cougar, so as to continue its listing as a federally endangered species in Georgia, South Carolina and North Carolina.

This also is to urge you and the USDA Forest Service (on whose land this encounter took place,) to undertake the appropriate law enforcement, protection and recovery actions required under 36 CRR 219.19 and 219.20 to integrate management, protection and conservation of this species in this area.

Georgia ForestWatch also specifically asks for such review and investigation before the U.S. Forest Service undertakes any management changes that may be contemplated for the affected areas of the Wild and Scenic Chattooga River Corridor and nearby forestlands. (Forest Service officials currently are engaged in a visitor capacity use analysis of this stretch of river, which could significantly increase human visitor pressure on this most wild section of backcountry.

The encounter, as related in several attached news articles, occurred in late January of this year when a Forest Service technician assigned to the Tallulah Ranger District, Clayton, Georgia, Terrance Fletcher, was chased into the Chattooga River by a seven-foot-long panther. Fletcher and a fellow technician were in an inventoried roadless area within the Wild and Scenic Chattooga River Corridor, conducting biophysical surveys as part of a possible expansion of whitewater recreation sports in this area. This wild area, a favorite of naturalists, photographers, hikers, backcountry anglers and hunters, currently is zoned only for travel on foot, in order to protect its solitude and other outstandingly remarkable values.

The incident was reported to Fletcher's supervisor and from there to other area Forest Service officials as well as wildlife experts with the Georgia and South Carolina department of Natural Resources and reduced to writing by Fletcher, in connection with injuries sustained during the incident. (Contact Tallulah Ranger David W. Jensen, 706.782.3320, for further details.) To my knowledge, however, no further efforts were made by Forest Service personnel or state wildlife

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agency officials to evaluate or confirm the sighting.

The sighting, and news of your five-year review also has sparked a variety of anecdotal evidence of possible cougar sightings in this area (see attached news articles.)

The Fletcher encounter and the citizen reports, at a minimum, would thus urge that the USFWS undertake appropriate steps to document the existence (or non-existence) of the eastern Cougar in these parts by qualified professionals, delineate the range of its critical habitat and to take appropriate steps to ensure that all state and federal agencies in this area do nothing to jeopardize the continue existence of this species or its critical habitat.

Just how much is at issue in this instance is ably and dispassionately delineated in a recent paper authored by Dr. James T. Costa, director of the well-regarded Highlands Biological Station, a year-round inter-institutional biological field station of the University of North Carolina system (also attached.)

Georgia ForestWatch is not-for-profit conservation organization dedicated to preserving, protecting and restoring the mountains, rivers and forests of north Georgia.

Please feel free to contact me if there are any questions, at these coordinates: 2489 Glade Road, Clayton, Georgia, 30525. Tel: 706.782.9944.

Sincerely,

Joseph Gatins

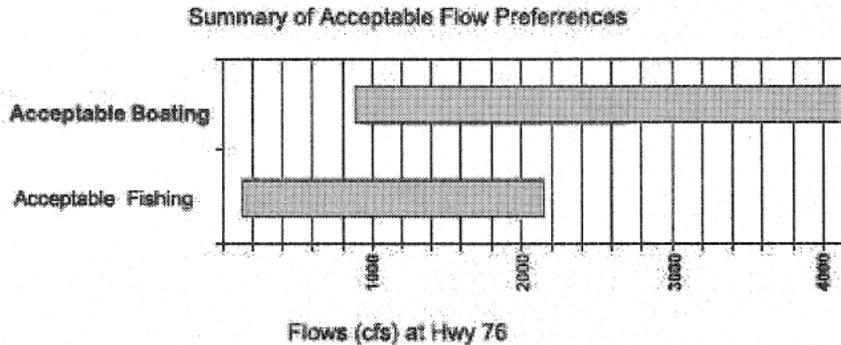
Joseph Gatins
Tallulah District Leader
Georgia ForestWatch

CC: USDA Forest Service

Black Cat sightings
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Concerns regarding the Chattooga River Expert Panel Field Assessment

The expert panel study report noted, "It is clear that acceptable ranges for the two groups [anglers and boaters] overlap."¹ This conclusion is indisputable because boaters and anglers were utilizing the Chattooga on the same day of study and at the same flow levels.



One month later the same report authors noted that "optimal flow preferences...suggests that fishing and whitewater boating can have different "prime seasons" and niches in the hydrograph."² Then leaped to their desired conclusion that "For the Upper Chattooga, the unregulated nature of the river may provide a situation where natural processes and responsiveness to rain events naturally isolate flow preferences of anglers and boaters."³ How could a publicly funded report of the collected data make such a claim? Mark Twain warned that "There are liars, there are damn liars and there are statisticians"; A review of the data collection study reports is enlightening.

I. Optimal Preferences versus Acceptable Ranges: The expert panels selected seven individuals and asked them to select what would be acceptable flow ranges and what would be optimal flow ranges for each activity. The acceptable range of water flows predict "when" anglers visit the river otherwise know as behavior criteria. Optimal flow levels determine visitors' favorite conditions. Optimal ranges might be useful in determining preferred water releases from dams but are irrelevant in evaluating human behavior on natural streams like the Upper Chattooga. To determine visitor behavior the question is simple "what is the acceptable range of flows" for each visitor type.

My favorite ice-cream flavor is *Rum Raisin*; however, I would not pass-up *Rocky Road* if I wanted ice cream. Chattooga anglers behave much the same way and fish at all acceptable water levels. Optimal flows may be 2.0 foot for fishing, but anglers reported fishing the Upper Chattooga from one foot up to 3.0 feet on the 76 gauge.

II. Misuse of a Statistic: The expert panel study report focuses on the median of the optimal flows levels versus the full range of flows from the study panels. Given such a small sample size this is a complete misuse of a basic statistic. The "statistical" assessment used in the Expert panel report uses a single data point (median) to forecast a population's behavior. By discarding data and using the median, the *Expert Panel Field Assessment* further shrinks the reported range of flow preferences, from a data range that was already truncated from "acceptable" to only "optimal". The report then

¹ Page 42 of the *Chattooga River Expert Panel Field Assessment Report 2/2007*

² Pg 30. *Chattooga Phase I Data Collection Literature Review Report 3/2007*

³ Pg 40 *Chattooga, Literature Review Report 3/2007*

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Concerns regarding the Chattooga River *Expert Panel Field Assessment*

uses these new numbers to incorrectly forecast visitor behavior. Narrowing of flow preferences by discarding data from a sample size of six panelists increases likelihood of statistical error by 500% (known as degrees of freedom) and is completely inappropriate for predicting visitor preferences for specific recreational opportunities.

The Average Camper Who Doesn't Exist (Shafer 1969) described how providing a single, uniform type of recreational opportunity based on averages will leave many visitors, quite possibly even the majority, less than satisfied with their experience. However, by offering a range of possibilities, more visitors' preferences can be met. Capturing the full range of acceptable visitor opportunities is the standard for land management and is the correct method of evaluating visitor capacity on the Chattooga Wild & Scenic River for the next thirty years.

III: Inadequate sample size. The USFS were provided historical records of Chattooga fishing use by Trout Unlimited in GA and by The Whiteside Cove Association in NC. The *Expert Panel Assessment* authors disregard factual data in place of anecdotal/qualitative data from a few angling panelist over a single weekend, at well above average water flows during the coldest month of January. AW also disagreed with sample sizes and warned the USFS about drawing conclusions from such limited data in an August 2006 letter.

IV: Garbage In Garbage out. The design of the panel questionnaire also reveals the biased built into the study. Anglers were asked to rate the river based on equipment type (spin cast, fly and bait) under wading-type fishing, even though bank fishing is very popular. Boaters were asked to estimate preferred flows under three classifications based exclusively on water levels. ("Big" water, standard trips and technical "low water" trips). For uniformity boaters should have been asked to review the Chattooga for various equipment types (kayak, raft and canoe) or Anglers should have been asked to rate the river based on fishing trips associated with higher and lower flow levels.

Anglers were only given six questions. While the Boater questionnaire had nineteen, 19.

Many Questions suggested by Whittaker's flow study manual were completely avoided. see A-1

V: "kayaker defined study zones" Streams' physical variations make it impossible to evaluate "optimal flow levels" for angling without being site specific. Anglers select discrete sites along the river corridor based in part on the ease-of-access associated with topography. Mr. Whitaker published "*anglers tend to need very little wadable area when they fish and seem amenable to moving up or down the river to find a good spot*"⁴. The Chattooga's North Fork ranges from 50' wide shoals to 4' wide gorges, from steep bedrock channels, to boulders fields, to a low gradient rippling creek. The variety of physical geography insures that at almost all flow levels the Upper Chattooga contains a suitable spot for angling.

Conversely, kayakers are required to traverse the entire stream between access points and use every site along that route. Therefore, study zones based exclusively on boat access are highly prejudicial.

⁴ pg 70 Whittaker, D., B. Shelby, W. Jackson, and R. Beschta. 1993. Instream flows for recreation: a handbook on concepts and research methods. U.S. Department of Interior, National Park Service, Anchorage, AK

Concerns regarding the Chattooga River Expert Panel Field Assessment

The expert panel study report ignores that historical angling records prove visitors enjoy angling on the Chattooga at most any water level⁵ and asked angler panelist to “average” water flow preferences over each boater-defined segment. Once at the Chattooga, water levels may alter location preferences or equipment selection, but it rarely results in the end of a fishing trip. The published *Expert Panel Field Assessment* reported on the few gorges that were unsafe to fish during the high water versus the many areas anglers successfully fished during the fishing trials.

VI: The gauge shuffle.

The study used both height and cfs flow levels based on the established USGS gauge to review angler flow preferences. These numbers were never combined.

However, for the boaters the Study avoided established gauge measurements and published “estimated” flow levels; the BF gauge does not measure volume, therefore volumes used were based on estimated correlation with the 76 gauge. This estimates were further “tweaked” to account for “time lags” using no scientific basis whatsoever and very few height gauge readings. All volume estimates are based on data from the 76 gauge therefore all participants preferences can be uniformly compared to the same gauge using either height or volume.

Two months after publication of the study, USFS Planner John Cleaves “*acknowledged that more analysis is needed to correlate the two gauges. The Burrells Ford gauge has only been operational for six months, he said, and forest service hydrologists are still figuring out the relationship between flows there and Hwy. 76. "It's not a clean conversion from one gauge to the other," Cleaves said. "My understanding is when it's not a storm event, you can do it. But when there's a storm event [like the one during the study], the Hwy. 76 gauge is reflecting more than what's coming down from Burrells Ford.*”⁶”

If time lag was a factor for day II during the study, It must have been a factor on day I of the study. Using a “time lag” for estimating flow during the first day of study would have increased the estimated water levels. The arbitrary use of a “time lag” gauge correction is completely inconsistent within the study report, completely uncorrelated and highly suspect.

The compounding of “water levels estimates” with “speculative desired flows” shows very clearly that the report authors were not being scientific about their data gathering or publishing.

VII: Non-random selection of non- independent participants

The selection of only expert American Whitewater boaters is clearly not random. My nomination form was rejected for participation based on skill level. Since AW selected the consultant ...

American Whitewater’s highly publicized viewpoints, appeals and lawsuits are well documented in AW’s bimonthly journal and on their website. As members of this lobby organization, the AW boating panel was exposed to these lengthy opinions; this is especially true of expert panel member Don Kinker who has written much of the AW egocentric literature. This preconditioning of every panel member and the Lack of non-AW participants shows the few collected opinions were not independent, therefore statistically biased.

⁵ TU and WCA fishing logs over the past few decades indicate fish during most water levels above 3’levels on the 76 gauge.

⁶ *Chattooga study biased, opponents say, Crossroads Chronicle, Wednesday, Apr 18, 2007, N. Axtell, Staff Writer*

Concerns regarding the Chattooga River *Expert Panel Field Assessment*

VIII: Complete emphasis on Water flow levels as a determinant of visitor behavior.

Water level is just one of the many variables associated with visitor behavior, not the exclusive decision criteria. For anglers, the physical topography and turbidity are important while to swimmers the water and air temperature, velocity and pool depth are important. Additionally wildlife-viewers select migratory or nesting period to visit the Chattooga at riparian sites based on the presence of wildlife, that presence resulting from the lack of humans. Waterfall hikers visit the river while the water is higher but also consider the season, like the clear views offered by winter. The arbitrary selection of water volume --primarily a boating parameter-- as an exclusive study variable is completely inequitable to the majority of Chattooga visitors.

To fulfill the requirements of a visitor capacity analysis, the LAC must determine if boating diminishes the many other Outstanding and Remarkable Values associated with designation. This can only be accomplished through a comprehensive study of every recreational and resource values and must consider opportunities available on the entire river corridor.

The continued focus on one section of the entire Wild and Scenic River sets an ugly precedent for a trail-by-trail review nation wide; with every possible recreation type -- like ATVs-- demanding equity on every inch forest land. Uniformity does not result in equitable management of public resources.

IX: The Expert Panels ignored most visitor types

The expert panels focused exclusively on boating and angling, two of the five protected recreational Outstanding and Remarkable Values.

The USFS data collected by the USFS notes that most other visitors preferred a boat-free Chattooga. It cannot possibly determine levels of boating impact when most visitor types were ignored during data collection. Whittakers own flow manual dedicates a few pages to swimmability at various flows.⁷ The same holds true for birders, waterfall viewers etc⁸ The USFS are responsible for a thorough analysis of the "affected parties" and "current visitors"; ignoring these other visitors during the expert study does not absolve the USFS of responsibility for protecting the visitor experience associated with these protected recreational values. The Consultants are steering the USFS into a "Find any Significant Impact" by ignoring critical information and avoiding rigorous exploration of publicly collected concerns; this will not suffice under NEPA guidelines or inevitably in the judiciary.

X: Publication of "speculative" boatability as data is unscientific.

The assessment published the opinions of a few American Whitewater members to predict flow ranges for paddling. The Burrells Ford gauge referenced was only operational for a few months and water levels were within the purported boatable range for only six days prior to the publication of the report; no valid opinions could not have been assessed without review of the reported flow levels. The estimated flow ranges are completely speculative and is clearly not gathered "scientifically".

Confluence Research Consultants -the hired consultants- warns about the limitations of a single flow review in their publication cited as the source for this Flow Study methodology. They wrote:

⁷ pg 71 Whittaker, et al Instream flows for recreation: a handbook on concepts and research methods. 1993

⁸ pg 72, Whittaker, et al Instream flows for recreation: a handbook on concepts and research methods. 1993

Concerns regarding the Chattooga River Expert Panel Field Assessment

"On-water boating feasibility assessments at a single flow may demonstrate whether boating is possible, but they are unlikely to provide precise estimates of flow ranges for boating."⁹ Yet these same consultants published numerous ranges of acceptable flows that happened outside the study period with no historical reference. These flow levels are completely speculative and highly prejudicial given that the boating panel was selected exclusively from AW's membership.

XI: The study was heavily skewed toward AW's demands.

The Appeal Decision's Visitor Capacity Analysis has been reduced to AW's recommended "Flow Analysis" conducted by AW's recommended consultant (Whittaker/Selby AKA Confluence Research and Consultants) with participants selected exclusively from the AW constituency. Additionally, all consultant publications *Expert Panel Field Assessment Report 2/2007*, *Literature Review Report 3/2007* and *Implementation Plan 10/2006*- cite AW and CRC consultants as their primary source for information.

The USFS ignored the reviewing officer's decision and placated the rumbling American Whitewater by conducted the narrow-focused study they demanded.

American whitewater first requested Confluence Research and Consultants (CRC) in a July of 2003¹⁰. Mr. Whittaker and Shelby also appeared on American Whitewater's list of suggested experts in their 2004 Appeal.¹¹ AW notes their suggested experts "have shown boaters have no quantifiable impacts"; since every action has an equal and opposite reaction an inability to measure that reaction shows a lack of ability, or desire, to measure that impact.

American Whitewater has recommended CRC consultants on at least eight different FERC flow studies. AW would only continue recommending a consultant that favors their interests of boating.

Although the concerns found within the *Expert Panel Field Assessment* are significant they are in no way comprehensive. The USFS needs to move forward objectively to complete the Limits of Acceptable Change analysis while conducting more thorough fact-finding missed during the outsourcing of data collection to these non-objective consultants. The results of the Expert panels are clear; there will be other visitors using the corridor during boatable conditions; The USFS need to focus attention on the desired conditions of these current visitors.

I look forward to review the balance of these Study Reports and will continue protecting the Character of the Upper Chattooga for future generations.

Please feel free to contact me with any questions.

Sincerely,
Mike Bamford

⁹ [Flows and recreation; a guide to studies for river professionals. Doug Whittaker, et, al 2005. published by the Hydropower Reform Coalition]

¹⁰ Memo from AW to Sumter National Forest; Content Analysis Team 7/2/2003 pg 11

¹¹ 2004 American Whitewater Appeal of the Sumter RRLMP pages 3-10 and 3-17.

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Friends of the Upper Chattooga
2368 Pinnacle Drive
Clayton, Georgia 30525

August 22, 2007

Jerome Thomas, Supervisor ✓
USDA Forest Service, Sumter National Forest
Attn: John Cleeves
4391 Broad River Road
Columbia, South Carolina 29212-3530

RE: Upper Chattooga River Visitor Capacity Analysis Scoping Notice

Dear Supervisor Thomas,

Friends of the Upper Chattooga individually and collectively and the individual signatories below file this letter as an initial response to the USDA Forest Service's request for comment on the Upper Chattooga River Visitor Capacity Analysis scoping notice of August 14, 2007.

As you know, the planners for the Sumter National Forest have informed us that none of the letters, comments and other statements filed with your office to date on this topic will count toward the ongoing analysis under the National Environmental Policy Act unless formally refiled.

Accordingly, kindly review the letters, studies and comments listed below, copies of all of which are already in the possession of your office. We shall in due course also seek to provide e-mail copies of this material, to help facilitate review by your office. This compendium includes a large variety of significant issues that must be evaluated and analyzed by the Forest Service as it conducts a thorough Environmental Assessment and "effects analysis" of this issue.

We look forward to reviewing your development of these critical issues as the agency gets deeper into the NEPA process.

Feel free to call if there are questions.

Sincerely,

Michael "Squeak" Smith

Michael "Squeak" Smith
Southeast Region Vice-President and Member of the Board of Trustees,
Trout Unlimited

By JG, with express permission *JG 8/22/07*

Rec'd FD 8-27-07

Butch Clay

Butch Clay

Mountain Rest, S.C.

By JG, with express permission JG 8/22/07

Joseph H. Gatins

Joseph Gatins

Co-District Leader

Georgia Forest Watch

Doug Adams

Doug Adams,

Newsletter Editor, Rabun Chapter, Trout Unlimited

By JG, with express permission JG 8/22/07

Charlie Breithaupt

Charlie Breithaupt,

Chairman, Georgia Council of Trout Unlimited

By JG, with express permission JG 8/22/07

Tom McInnis

Tom McInnis,

Chairman, South Carolina Council of Trout Unlimited

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Art Shick

Art Shick,

South Carolina Trout Unlimited & NLC Representative

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Buzz Williams

Buzz Williams,

Executive Director, Chattooga Conservancy

By JG, with express permission JG 8/22/07

David Bates
 David Bates,
 Executive Director, Jackson-Macon Conservation Alliance
 By JG, with express permission JG 8/22/07

Wyatt Stevens & Mike Bamford
 Wyatt Stevens and Mike Bamford
 for the Whiteside Cove Association
 By JG, with express permission JG 8/22/07

George Nickas
 George Nickas
 Wilderness Watch
 By JG, with express permission JG 8/22/07

Brent Martin
 Brent Martin
 The Wilderness Society
 By JG, with express permission JG 8/22/07

John Benbow
 John Benbow,
 President, North Carolina Wildlife Federation
 By JG, with express permission JG 8/22/07

Jerry McCollum
 Jerry McCollum
 Georgia Wildlife Federation
 By JG, with express permission JG 8/22/07

Attachment:

**Letters, studies, comments previously filed
 with Sumter National Forest by members
 of Friends of the Upper Chattooga, and
 resubmitted for NEPA analysis and review, August 22, 2007**

- 1 August 22, 2007. Mike Bamford. "Concerns Regarding the Direction of the Chattooga Analysis."
- 2 July 28, 2007, Friends of the Upper Chattooga letter to Supervisor Thomas. List of important factors necessary for proper scoping.
- 3 July 12, 2007. Whiteside Cove Association (Mike Bamford) letter to John Cleeves. Comments on study submitted to Forest Service, "Capacity and Conflict on the Upper Chattooga River." 218-233
- 4 July 10, 2007. Doug Adams. Verbal comments submitted to the public hearing.
- 5 July 10, 2007. Doug Adams. Written comments submitted to the public hearing. 146-153
- 6 July 10, 2007. South Carolina TU (Tom McInnis) letter to John Cleeves at public hearing. Importance of headwaters and preservation of wilderness character.
- 7 July 10, 2007. Georgia ForestWatch letter (Joseph Gatins) to Supervisor Thomas at public hearing. List of significant issues. 1166-1168
- 8 July 10, 2007. Edwin Dale letter to Supervisor Thomas at public hearing. Raises questions regarding process.
- 9 June 29, 2007, Friends of the Upper Chattooga letter to Supervisor Thomas. List of biophysical and social issues requiring review prior to management action. 101-102
- 10 June 26, 2007. Doug Adams e-mail to Supervisor Thomas. List of items for consideration prior to Standard Workshop of July 14.
- 11 June 25, 2007. Doug Adams e-mail to Tony White and John Cleeves. Comments on the Upper Chattooga "decision environment."
- 12 June 24, 2007. Doug Adams e-mail to Tony White and John Cleeves. Comments regarding "Integrated Report" reference to angler's diary.
- 13 June 22, 2007. Doug Adams e-mail to Tony White and John Cleeves. Comments on aquatic habitat indicators for management standards. 13-20
- 14 June 19, 2007. Friends of the Upper Chattooga letter to Supervisor Thomas. Butch Clay white paper re: the Upper Chattooga "decision environment." 48-84
- 15 May 30, 2007. Friends of the Upper Chattooga to Supervisor Thomas. Mike Bamford white paper, "Managing for the View of the Wild and Scenic Chattooga." ~~52-63~~ 52-63
- 16 May 3, 2007. ENSR Corporation letter (Kenneth Wagner, Ph.D.) to John Cleeves. Comments on Chattooga studies. 84-93
- 17 May 3, 2007. Mike Bamford paper filed with Forest Service, "Concern regarding the Chattooga River Expert Panel Field Assessment." 1-5
- 18 May 3, 2007. Friends of the Upper Chattooga letter (McKenna Long & Alridge) to Supervisor Thomas. Voice concern key recommendations not being followed, including review of historic impacts of boating on lower Chattooga. 70-73
- 19 May 1, 2007. Friends of the Upper Chattooga report on Upper Chattooga scenery impacts, "Beauty is in the Eye of the Beholder."
- 20 April 30, 2007. Friends of the Upper Chattooga letter to Supervisor Thomas, regarding tributaries and large woody debris. 52-
- 21 April 20, 2007. Friends of the Upper Chattooga letter to Supervisor Thomas. Forwarding copy of Doug Adams "Point and Counterpoint" assembled April 17, 2007. 38-48
- 22 March 12, 2007. Georgia ForestWatch letter to US Fish and Wildlife Service and copy to USDA Forest Service. Need to review incident of eastern Cougar in Upper Chattooga corridor. 49-51

- ²³ December 15, 2006. Whiteside Cove Association report. “*Chattooga Swimming in North Carolina.*”
- ²⁴ November 30, 2006. Whiteside Cove Association report. “*Relaxation or Creek Boating – Not Both.*”
- ²⁵ November 9, 2006. Whiteside Cove Association report. “*Access Limitations through Road Closures.*”
- ²⁶ October 24, 2006. Friends of the Upper Chattooga letter to Supervisor Thomas. NEPA concerns with study plans.
- ²⁷ October 20, 2006. Whiteside Cove Association to John Cleeves. Concerns re: Implementation plan.
- ²⁸ October, 2006. James T. Costa letter to Supervisor Thomas. Degradation likely if Upper Chattooga opened to boating.
- ²⁹ October 6, 2006. Senior U.S. District Judge William C. O’Kelley order dismissing American Whitewater suit seeking unlimited boating on Upper Chattooga, filed in U.S. District Court, Gainesville, Georgia.
- ³⁰ August, 2006. Friends of the Upper Chattooga letter to Supervisor Thomas. Additional matters re: visitor capacity analysis.
- ³¹ July 20, 2006. Friends of the Upper Chattooga to Supervisor Thomas. Concerns re: boater trials.
- ³² July 5, 2006. Friends of the Upper Chattooga amicus brief filed with U.S. District Court, Gainesville, Georgia, in re: American Whitewater v. Dale Bosworth, including affidavits from Max Gates and Jim Barrett.
- ³³ May 10, 2006. Friends of the Upper Chattooga to Chief Dale Bosworth. Re: American Whitewater’s threat to litigate issue.
- ³⁴ April 28, 2006. Affidavit of Jim Barrett.
- ³⁵ April 27, 2006. Friends of the Upper Chattooga letter to John Cleeves. Incompatibility of creeking with solitude.
- ³⁶ April 11, 2006. Friends of the Upper Chattooga letter to Supervisors Atkinson, Hilliard and Thomas. Urging study of lower Chattooga to properly understand Upper Chattooga.
- ³⁷ April 10, 2006. Affidavit of Max Gates.
- ³⁸ January 10, 2006. Whiteside Cove Association statement, re: Creek boating.
- ³⁹ December 27, 2005. Whiteside Cove Association letter to John Cleeves. Concerns regarding physical carrying capacity of roads, parking lots and trails.
- ⁴⁰ November 17, 2005. Georgia ForestWatch letter to John Cleeves. Concerns re: study.
- ⁴¹ April 18, 1988. Boating on Yellowstone’s Rivers – An Analysis and Assessment, prepared by U.S. Department of the Interior.

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John Cleeves
Sumter USFS
4931 Broad River Road
Columbia, SC 29212

**Comments on the USFS report titled
Capacity and Conflict on the Upper Chattooga River
Submitted on July 12th, 2007**

Dear Mr. Cleeves

We appreciate the posting of the Consultants *Integrated Report* for review and comment. This response is focused primarily on corrections; missed data and what we feel are misinterpreted conclusions. There are many elements within the report that are helpful for the general public. However, missing elements and some corrections would complete the report and offer readers a more educated basis from which to draw a proper conclusion. This letter is outlined to assist the USFS improve the accuracy of information prior to the publication of an EA.

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1.0 The *Integrated Report* did not collect all data requested in the *Appeal Decision*.

1.1 The appeal decision requested the agency to "consider recreational opportunities within the geographical area." The entire downstream Chattooga is available for private boats to the detriment of other OR values. In addition 96% of the watershed is available to boaters during the "higher-water/boatable" period. Since the Chattooga North Fork is the ONLY local stream protected, it remains the only stream that offers a boat-free creek during higher-water. As growth in creeking continues, this type of boat-free experience will become more rare and this currently available opportunity more unique.

The IR's review of "available" kayak opportunities excludes creeks in the geographical area and the majority of the Chattooga Wild and Scenic River. Two-Thirds of the Chattooga is already available for float trips 365 days of the year or 100% of the time. In addition Overflow, the Tuckasegee, the Oconee etc. all offer floating opportunities during the purportedly boatable days on the Chattooga.

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1.2 The *Appeal Decision* required the USFS to "Involve affected and interested parties in the design and execution of the capacity analysis". The majority of Chattooga users have repeatedly commented on the narrow-focused scope of the visitor capacity study that only surveyed kayak and angler "flow preferences". Early collected desired conditions indicated concerns from swimmers, birders, day hikers and conservationists; a hard look of these user preferences were avoided or given short shrift within the *Integrated Report*(IR).

1.3 SAFETY

Page 12 of the *IR* reported the *Appeal Decision* as saying "*In addition, there is no basis in law, regulation or policy to exclude a type of wilderness-conforming recreation use [boating] due to concerns relative to safety, and search and rescue.*"

Yet managing the resource to "provide a level of public safety" is required under the WSR management guidelines and under the Federal land Policy & Management Act of 1976. The congressional report on designation noted "*the administration of the river, as an entity, should enable*

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the Forest Service to promote a suitable safety program"¹ If the Sumter USFS is being directed to ignore public safety by the Washington office, that should be made clear to the public within the EA.

Safety is listed a few times within Wild & Scenic River policy guidelines.

- a) The USFS is required to "regulate on-water use including providing a level of public safety, maintaining a desired recreating experience, and protecting biological and physical values."²
- b) Additionally, in determining capacity and establishing a management plan the USFS must consider "public health and safety."³
- c) "Management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards."⁴

There are many more "safety" related guidelines within the FS handbook. It is clearly the responsibility of the USFS to consider public safety when setting management policy within a WSR corridor. In addition the USFS should not ignore the burden boating might have on local Search and Rescue personnel and the associated county funding.

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Elsewhere on the Chattooga the USFS currently zones tubing for safety, require safety gear for kayakers and bans motor craft to protect paddlers. The USFS safety policies are inconsistent and appear arbitrary.

Safety Statistics from USCG Accident reports

	1996	1997	1998	1999	2000	2001	2002	2003
# people struck by boats (reported accidents)*	147	133	123	112	131	133	95	82
# people struck by boats (deaths)	11	8	7	5	5	6	10	9
Kayak/canoe accidents*		79	80	78	33	98	57	70
Kayak/canoe deaths		110	115	84	104	101	78	87
Whitewater deaths		27	31	25	26	23	22	27
# Kayak/canoeist (,000s)		233	271	258	284	276	321	283

* The USCG estimate less than 5% of boat accidents are report⁵.

2.0 FISH STOCKING Changes in the Wilderness:

Page 16 of the IR noted "Upper Chattooga stocking was also eliminated in the Wilderness area after it was designated in 1975, and stocking was reduced due to road closures on other upper river segments".

We found three documents that indicate stocking happened well after 1976, therefore stocking was not eliminated due to "wilderness designation".

First, the 1985 RLMP indicated that Bull Pen was still being stocked and mentions reducing fisherman impact to the riparian zone as a reason to reduce stocking in the wilderness area.

Second, page 26 of the 1977 Chattooga WSR management plan lists Bull Pen Bridge as a stocking location.

¹ Senate Report 93-279 1974 pg 3016 Review of Chattooga for WSR designation

² "Managing Designated Wild & Scenic rivers" pg37 Section 13(g).

³ Wild and Scenic Rivers Guidelines Federal Register / Vol. 47, No. 173 / Sept. 7, 1982

⁴ The Federal Land Policy and Management Act of 1976, Sec.101.[43 U.S.C.1701]§(a)

⁵ http://www.uscgboating.org/statistics/Boating_Statistics_2005.pdf

Finally, the 2/1/88 Stocking Summary from the NC WRC indicates stocking the Chattooga Main Channel and in the Lower Fowler creek (within Ellicott Wilderness) in 1987.

The reason stocking was eliminated at Bull Pen or on the tributaries is still unclear. However, stocking was eliminated within a few years after the 1985 Sumter RLMP suggested eliminating fish stocking to "reduce fishing pressure" on the "fragile" stream banks by "bait fisherman. If the reason to eliminate stocking was to reduce pressure on the sensitive riparian zones, allowing boating to create similar impacts twenty years later would be inconsistent with policy and possibly prejudicial.

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3.0 OTHER USERS:

3.1 Swimming: Page 63 of the IR noted "*Encounters between swimmers/frontcountry recreation users and boaters (if allowed) are likely to be rare and do not represent a substantial impact.*"

The capacity analysis never collected data on the protected OR value of swimming, therefore any statement about swimming is completely speculative. Swimming should not be dismissed in a capacity review of the Chattooga recreation, especially when it remains the most popular Summer Activity on the North Carolina Chattooga, this can be validated by simple observation of Cashier's Slide Rock or in the pools around Bull Pen where each day hundreds of young children cool-off in a mountain stream.

Additionally, no data was collected to support the statement that "swimming is confined to low water", nor is the relative term *low* ever defined. The *Expert Panels* reviewed the preferred flow levels for anglers and boaters but the study excluded a review of swimming flow levels. There is agreement that water level above the 98% is dangerous to swim, however boaters are claiming the water may be boatable down to the 80%. Therefore, boaters could encounter swimmers on 90% of boatable flows; 98% is not "rare". The hazardous conflict between swimming and boating sharing a small mountain stream with many "blind drops" requires careful review. Since the report has no basis to comment on swimmable times and the public record documents concerns for swimmers, casual dismissal of this potential hazard may be considered negligent on the part of the agency.

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The IR indicated that the "*flashy hydrology... is relevant for recreation because higher flows associated with storms are hard to predict and available for relatively short periods of time. This makes it hard for recreation users to use or avoid them*"(pg 76 IR) Since using or avoiding any particular flow is difficult, it is doubtful that flows alone will separate kayaks from swimmers.

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The Agency should review the NEPA statutes under CFR §1502.22 regarding "incomplete or unavailable information". The agency must consider "*reasonably foreseeable impacts which have catastrophic consequences, even if their probability of occurrence is low*"; Kayaking through popular swimming holes during the Summer most certainly would apply to this situation. .

Most swimming occurs May 15th through September 30th, or 35% of the year. Swimming use is temperature dependent while boating is flow dependent; these independent variables do not "naturally separate" these two user groups.

According to the 2002 South East Research Stations *Participation Survey*, swimming in streams has a 46% participation rate compared to only 3% for all kayaking; a far larger percentage of the population swim than do kayak. The USFS should not set policy placating such a small special interest group that may harm the ability of the majority of users to enjoy the river.

Pg 29 of the IR does not list swimming at Bull Pen as a potential use, yet it is included in many visitor guides to the Highlands area and documented in the public record.

P28 of the IR incorrectly defines the summer/swimming season as July & August

3.2 Day hiking

The IR indicates that "Most hikers probably value the lack of motorized, mountain bike, and horse use on these trails." According to the Desired Conditions collected in the December 2005 stakeholders meeting, day hikers also value the lack of "boaters" at the river. These publicly collected desired conditions appear to be missing from the *Integrated Report*.

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Page 62 of the IR notes "In many if not most cases, encounters between hikers and boaters will be "brief sightings" through the trees" Hiking, as defined in the 2005 stakeholders meeting, is not just "walking along the trail". Hiking is sometimes just a mode of transportation not the primary activity; the primary reason for a hiker visit was defined as viewing the river, wading, wildlife viewing, picnicking and relaxing⁶. The *Integrated Report* completely focused on "walking along the trails" versus the experience of day hikers at their primary destination -the Wild and Scenic River.

Most of the hiking comments within the IR are filled with caveats and speculation. One example from page 62 notes: "Boating use (if allowed) is likely to be highest on winter and early spring days immediately following storm events, which are relatively rare). Some proportion of those days will be rainy and cold, lowering hiking and backpacking use, and reducing the chances of boater-hiker encounters." No quantitative data support this "opinion" found within the IR.

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There are no facts collected to validate the claim that hiking after storm events is less likely. However, the public record indicates visitors may be lured by high-water to view the rapid course and waterfalls, especially at Big Bend and Bull Pen.

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3.3 Birding and Scenery:

Birding and Scenery viewing were both listed under Day Hiking and Front Country user activities during the December 2005 Chattooga stakeholders meeting. They are both protected OR values associated with the Chattooga's designation and require consideration under FSM 2354.41. The IR provides no references to direct impacts on wildlife-viewing or alterations to the scenic expectations if boats are introduced to the Upper Chattooga.

Car counts are useful in understanding seasonality of use but will not help quantify visitors by activities or value of solitude. A review the NEPA mandates under 40 CFR §1502.22 regarding "incomplete or unavailable information" will help correctly classify the actual data, from anecdotal evidence, from literature references, from estimates in all EA information.

4.0 NAVIGABILITY:

4.1 Page 11 of the IR noted "we are not aware of any formal NC Attorney General opinion or State Court ruling as to whether or not the Upper Chattooga River in North Carolina is considered to be "navigable in fact" and therefore subject to public trust rights under state law." The USFS published the NC Attorney General's non-navigability opinion on page 13 of the Chattooga WSR Study Report in 1971. The 1971 study was referenced three times in the Integrated Report so therefore must be considered by the IR authors as credible document. In addition, an opinion that the riverbed in NC is private (not navigable) was repeated in the Federal Register on page 11853 on 3-22, 1976.

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Both these published non-navigability opinions were shared with the USFS on three occasions prior to the publication of the *Integrated Report*.

⁶ see notes from December 2005 stakeholder meeting, Chattooga River Capacity analysis published by the USFS
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4.2 The new claim by AW's Kevin Colburn at the July 10th public hearing, that the 1876 [SC v. GA 93 U.S. 4] case adjudicated the Chattooga to be navigable is ludicrous. That case involved an obstruction in the Savannah River near Savannah, obviously far removed from the narrow stream that is the Upper Chattooga. From the very title of the case, the case obviously involved an issue between the states of South Carolina and Georgia, and so could not possibly have touched on the navigability of the Chattooga in North Carolina.

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American Whitewater have also claimed a 1787 pact between the States of South Carolina and Georgia somehow claims the trickle, that is the NC Chattooga, navigable. The interstate pact boundary terminated at the source of the Tugaloo River, defined within the agreement as Tugaloo Lake (below the Chattooga) and forty miles downstream from the NC Chattooga

4.3 Even the Georgia side of the Chattooga is not considered Navigable-in-fact under Georgia state law; this was also published in the Federal Register page 11853 March 22, 1976.

5.0 Angling

Page 19 of the IR indicates "Front country fishing is also limited near Bull Pen Bridge, which has more rapids and cascades than fishable pools and runs, particularly at high water." There are accessible shoals 200 yards above and 100 yards below bull Pen Bridge that are frequented for fishing at most water levels. Fishing this area is discussed in the Chattooga public record and is referenced in several local guidebooks with no mention of high-water limitations.

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"High water" is again not quantitatively defined in the IR. Water levels up to the 97% provide excellent fishing just above and below Bull Pen Bridge. Use at these levels is well documented in the WCA submitted fishing logbook data.

Page 28 stated "There is no creel or other use information for North Carolina segments; in general, angling use on these segments is thought to be light" Again, the word "light" is not quantitative, therefore worthless. The volume of entries included in the public record indicate this area is fished and the "value" of that experience remains undocumented.

The submitted Whiteside Cove Association Data along with the public record indicate fishing the Chattooga Cliffs section on both the private and public sections of stream. Review of the 40 years of angling logs show consistent use at almost all water levels up to the 99% level of flow with PAOTs closer to 13 during Spring and Fall fishing peaking at 25.

people at one time

The expert panel contained no anglers familiar with the Chattooga Cliffs sections. Yet the IR published "fishable water levels" without expert knowledge or any data. That data does not match the 40 years of angling use recorded on the Chattooga Cliffs reach. The value of this designated *wild trout* water is seemingly dismissed within the IR

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From page 20 "Most fishing on the Upper Chattooga appears to be flow-dependent, with ideal wading-based angling at low to medium flows." Ideal angling flows for the Chattooga Cliffs range from 12cfs up to 175 cfs measured at Grimshawes bridge; this is the 10th up to 99% of water flows, not the *low to medium flows*. Ideal fishing flows on the upper most section represent 100% of the purportedly boatable days.

From page 69: The lower limit on "optimal" angler flows collected during the expert panels was eliminated when charting visitor preferences in the IR. This error inflated the forecasted number of "optimal angling days" from 100 to 324 days per year. The IR utilized the "acceptable lower limit on angling and the "optimal range" to predict the upper limit. The only consistency in the statistical details within the IR are that errors favor the boating advocates position.

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Page 69 of the IR notes that *"the best boating occurs at times when flows are higher, while the best angling occurs when flows are lower. Boating only during high flows (zoning in time) eliminates encounters."* Yet both Anglers and Boaters enjoyed their activity during the same flows during the expert panels.

The repeated logic that anglers will only fish during "optimal flows" or during "best times" invalidated by the two published DNRs surveys on angling the Upper Chattooga.

The expert panel survey asked six anglers to rate angling, over an entire segment, between "totally acceptable" and "totally unacceptable". A single gorge would classify an entire segment as less than "totally acceptable" and therefore suboptimal, even when the majority of the reach was easily fishable. Collected data on fishing was not site specific as indicated in Mr. Whitakers textbook on recreational assessment. Instead, anglers were asked to "average" The data tells nothing about actual behavior of anglers and is invalidated by both published DNR surveys that indicate actual use.

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5.2 Does kayaking a small mountain stream conflict with fishing? This was a primary question at issue in the analysis but study of this topic was avoided. The USFS claimed the analysis would answer this question in federal court [McClain for the USFS noted *"if boating were permitted without regulation in those areas it could really potentially harm the fishing ability, the fishing situation. So that is one of the things they are looking at with the study."* Id 15:2, AW vs. USFS dismissal hearing docket no. 2:06-CV-74-WCO, 2006] Two million taxpayer dollars and two years time have resulted in a analysis that avoided study of the topic and a report without conclusion.

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To any angler the issue is obvious and requires no study further than simple observation. However, since American Whitewater and now the *Integrated Report* do not accept the conventional wisdom, that sudden movements and splashing will spook fish, the USFS should set up observational studies that definitively show humans and movement spook fish.

5.3 Lack of Angling Data: The 1987 and 1999 DNR angling surveys, the TU logbooks and the 40 years of WCA provide detailed angling use history along the Upper Chattooga, each with similar results. Oddly, these historical sources of data do not match the IR forecast in angler behavior over the range of water levels. Why the IR's anecdotal survey of six anglers on a single day was considered superior to decades of fishing logs and scientifically collected data appears irrational yet remains the cornerstone for the IR's conclusions on angler behavior and use patterns.

5.4 A review of previous Chattooga policies affect on angling behavior is not included within the IR.

6.0 PADDLING

6.1 Downriver use data is missing

Paddling the lower Chattooga or West Fork was not included in the number of "boatable days" on the Chattooga Wild & Scenic River. Based on published boatable levels the Chattooga already offers over three hundred (325) boatable days, with a complete overlap with potential boating days on the Upper Chattooga. The OR value of boating is already well protected on the Lower Chattooga and West

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Fork. Without consideration of use within the entire Wild & Scenic corridor or in the geographical area the IR data and charts on boating behavior remains incomplete.

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American Whitewater has demanded the USFS study the entire resource; that should include 35 miles of publicly owned Wild and Scenic River downstream of Highway 28.

6.2 The IR notes "at estimated use levels...impact may not be significant", indicating that at some volume, boating Will create significant impact. In addition the IR contains some "capacity related" indicators but avoids any boating specific resource indicators. The resource impacts that Will become significant with increased boat volume are not defined in the IR nor are submitted as indicators to complete the LAC, yet concerns of impact fill the public record.

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Further, the IR indicated that at some sections, through which boats must pass, impact is already above recommended wilderness standards. Therefore the "Guestimates" of additional use, above existing levels will only further exceed the capacity for the stream to naturally recover. If current use levels require mitigation from impact, it is clear aggregate use with the addition of boats will further compound the problem. Until existing impacts are mitigated and the resource stabilized, no additional uses should be considered.

6.3 The estimate on the number of paddlers appears grossly underestimated. Hundreds of letters from AW constituents indicate high interest in paddling the river and during the 2005 desired conditions meeting boating participants noted they would likely run the river "multiple times each year". One might expect a few hundred visitors in a single day.

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In addition the growth rate in creeking and the urban areas is not factored into any use data. Unlimited boating in three decades compounded with similar growth in all existing uses requires consideration within the EA.

Overuse by floaters on the Lower Chattooga highlights how growth in boating has displaces other potential uses. Use estimation should extend beyond current estimated levels with all various activities compounded over the next few decades.

6.4 Not a Protected ORV or Conjecture?

Page 22 of the IR noted that: *The 1971 WSR study reported a Forest Service reconnaissance trip in a small raft from Grimshawes Bridge downstream to Highway 28 ... "The fieldwork for that study was apparently conducted in a small "rubber raft" because participants did not feel that kayaks or canoes of the day were appropriate for the challenging rapids."*

If kayaks and canoes were not appropriate for the challenging rapids prior to designation, then they could not possibly be protected designation values (ORVs). The IR contradicts itself by stating kayaking and canoeing were values associated with the Upper Chattooga then states such activities were not appropriate prior to designation; at least one of these two statements is false.

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Since creeking was not a reason for designation, it is not a protected Outstanding and Remarkable Value. Creeking is therefore a new user and should be evaluated accordingly in the EA.

6.5 Safety Training: A non-biased survey done on Safety training for kayakers and canoeists was conducted by the US Coast Guard in 2002 *National Recreation Boating Safety Survey*⁷. The report

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⁷ <http://www.uscgboating.org/statistics/survey.htm>
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published that 70% of canoeists and kayakers had never taken a boater safety class. Clearly the majority of potential boaters have had NO safety training.

6.6 Accidents/Deaths: There have been twenty four (24) boat-related deaths on the Lower Chattooga in 37 years. There have been four accidents, one fatality, on the nearby Cheoah that just opened in 2006. That the IR "predicts" that a death will happen on the more difficult Upper Chattooga with class V rapids every 28 years is completely ridiculous and irresponsible.

The IR used a "conversation" with Walbridge who "has been a safety chair for the American Canoe Association and American Whitewater" to estimate the likely hood of an accident. The IR also references a fatality statistic compiled can by an AW assistant.⁸ Objectivity of safety data sources requires more oversight from the agency.

9. Referenced statistics were collected on all whitewater kayaking from class II to V+ rivers. This is unlikely to accurately predict fatalities on a Cass IV-V+ stream like the Upper Chattooga.

The Coast Guard has objective participation and fatality data for whitewater kayaking. The 2.9 statistic appears to be under estimated by a factor of 10 with a summary of one years data. The USFS should rely on objective sources to review Search and Rescue, as well as fatalities, statistics for "private boaters," on class IV and V steep creeks.

At a minimum, the number of incidents, accidents and deaths should be added as indicators so that the river can be closed when the number of SAR accidents or deaths are more than one per year or greater than two in five years. This would protect the public's health and safety or eliminate participates via natural selection.

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7.0 DATA COLLECTION for UPPER CHATTOOGA CLIFFS SECTION.

IR page 11 noted "access to the reach was not provided by landowners." However, the USFS surveyed the private property in 2005 with the landowner permission. The assessment from the ranger (Jeff Owenby) was that the Chattooga was, in his opinion, not navigable. Access for public recreation during the expert panels was denied for liability concerns and what has proven to be valid concerns about the hired consultant's objectivity (after having been recommended by AW).

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While page 29 noted "These [angling] estimates do not include use on the 1.7 miles of private land in this reach." After the USFS visited the property in 2005 they were given contact information for numerous club members to help better understand current use levels. In addition, the Whiteside Cove Association supplied forty years of historical use data to the USFS and the consultants. The data indicates the Chattooga Cliffs section is fished and enjoyed at most all water levels and referenced the same downstream flow data used to determine angler preferences within the *Integrated Report*. The *Integrated Report's* failure to collect use data was based solely on the inflexibility of the hired consultant to include WCA members in either of the expert panels or to survey any members. Surveys, similar to those used during the expert panels, provide the necessary information to fill the data gaps within the anecdotal expert panel questionnaires.

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The USFS must consider how alternatives might impact protected OR values throughout the entire Wild & Scenic Corridor, including on private property. Data collection excluded current uses that WILL be impacted by altering current policy. The USFS is required to consider current users under the Appeal Decision; recreation data on the private section within the WSR was submitted voluntarily for consideration. Some OR values not considered on the three miles of the Chattooga above Norton Mill Creek include, solitude, goal interference with birders and anglers

⁸ Plyler, Jennifer. (2000). "Comparison of American Whitewater Safety Statistics to the Coast Guard." American Whitewater Safety Assistant .
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Under Executive Order 12630 the agency must include how each alternative might impact property rights. Including the North Carolina laws for trespassing and nuisance. The USFS can not set policy the ignores, encourages or condones trespassing or violates property rights.

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8.0 Biophysical Impacts and Indicators

"Where a choice must be made between wilderness values and visitor or any other activity, preserving the wilderness resource is the overriding value. Economy, convenience, commercial value, and comfort are not standards of management or use of wilderness." FSM 2320.6

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The W&S Rivers Act states "primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeological, and scientific features" WSR Act 10(a)

The management priority of conservation over recreational demand is very clear.

8.1 Riverbed: The cumulative increase in riverbed impact from low-water boating is not considered even though one expert panel boater reported hitting bottom 40 times during moderately high water. Potential impact to the health of the aquatic plants, invertebrates and spray zone flora as a result of additional boat impact and portage use is not considered. One low-water trip through a gravel stream bed can disrupt trout spawning and invertebrates. The shear force of a moving kayak dragging along the bottom will disrupt a stream bed far more than just walking in a stream. Disruption of the spawning beds resulted in seasonal closure of the Upper Salmon River

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Regarding Boat marks page 57 of the IR notes *"This appears to be framed as an aesthetic rather than ecological impact; for some users, marks on rocks diminish the "naturalness" of the river setting."* The ecological impact of adding plastic includes the associated toxic elements (**cadmium and lead**) typically used to enhance polyethylene or the **phthalates** used in softening inflatable kayaks would all impact the aquatic and riparian ecosystem. The addition of toxins into the environment will have grave consequences to smaller organisms in the aquatic food chain.

8.2 New Trails: The report notes the probable need for additional trails in the riparian zone (pg 43) but the amount appears grossly underestimated. Estimates were based on the incomplete expert panel boating data. The expert panel report was conducted exclusively by experts with state-of-the-art equipment. Additional portage and scouting trails are likely to be required to accommodate less-skilled kayakers, canoeists and the increasingly popular inflatable kayaks.

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There is no mention of additional trail needs for indirect boat-related activities including scouting trips, new portage trails around ever-changing strainers (fallen trees), attraction sites, spectator use, etc. Scouting trips are recommended for first time use and after flooding⁹ –the primary time for a kayaker visit. "When in doubt scout" is standard safety protocol advocated by the NPS, BLM ACA and AW, yet the assessment of these additional trail, and cumulative impact to existing trails, is excluded from the *Integrated Report*. Most of this additional use would occur after heavy rains when likelihood of erosion is highest¹⁰.

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All assessments of scouting and portage needs were reviewed during a single flow, not the full range of potentially boatable flows. Expected riparian impact from portaging above the bedrock at higher flows or high impact to the riverbed during low-water use is not considered within the

⁹ The American Red Cross, Canoeing and Kayaking (1981) pp. 5.12-5.15. William "Bill" Hillcourt. Official Boy Scout Handbook (1979) p. 161.

¹⁰ Soil Survey of Jackson County, NC, USDA/NRCS 1991

Integrated Report. The common need for "hike out" trails due to the "flashy hydrology" of the river were also not included in the trails assessment.

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Dragging canoes and kayaks on these soggy trail is not reviewed in the IR yet is common practice. The added loads and repeated trips associated with all the extra wet gear is excluded from review.

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Rerunning favorite rapids is also not discussed, rerunning rapids creates repeated wear on single trails around favorite drops near spray zones; scouting has a similar double impact.

All potential trail needs should be included for a realistic and comprehensive review .

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8.3 Road & Parking lots: The Integrated report notes that 90% of the sediment in the Chattooga is from Road use and the same report notes sedimentation runoff is worst after heavy rains¹¹. Boaters exclusively visit the river "after heavy rains" and due to shuttling cars between access points create far more impact per visitor. The cumulative impact from increased road, and parking lot, use on sediment loads into the Chattooga are not listed in the IR. Yet concerns are in the public record.

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8.4: Riparian Vegetation The USFS were concerned about boaters "trampling vegetation"(2004 FEIS Appdx. H), yet that issue was given short shrift in the IR. Given the soggy conditions, poor bank soil and underestimate of additional riparian use, it is clear that riparian flora will be subjected to significantly more impact if boating is added. This should be included in the EA.

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The volume of boaters, or any user, correlates to increased levels of impact. Evaluated cumulatively with existing users -already considered over capacity in the wilderness- WILL only further degrade the riparian resource and aquatic vegetation the agency is mandated to protect. The Recent FEIS on the South Fork of the Kings River, CA and the AMC 2002 River Report both indicate whitewater overuse creates bank erosion.

9.0 Wildlife Impacts

"Maintain wilderness in such a manner that ecosystems are unaffected by human manipulation and influences so that plants and animals develop and respond to natural forces." FSM 2320.02

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9.1 Bird disturbances: *"Some birds like the cool, shaded streambanks in the areas where Hemlock & white Pine dominate, towering over the understories thick with rhododendron and mountain laurel. Canada Warblers, Blackburnian Warblers, the Louisiana Water thrush and the relatively rare Swainson's Warbler use the streamside areas as nesting ground" "The Great blue Heron and kingfishers... Various swallows and flycatchers are found along the river margins. Wood Ducks and Mallards are common during migration periods."* ¹² Page 52 of the IR admits "Recreation use may displace birds from trail corridors and discourage nearby nesting" but does not provide research citations to make any definitive conclusions about the net affect boats will have on birds along the Upper Chattooga.

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*"Despite their formidable size, herons are shy birds that can be vulnerable to human disturbance."*¹³ Most boaters are aware that their downstream nature may disturb the same heron multiple times, but few understand the consequences. Consistent interruptions eventually lead to abandonment of a water body. "Herons are adversely affected by human activity." and herons "did not return to heavy used areas" due to the easy "mobility of the birds".¹⁴

¹¹ Van Lear, Taylor, & Hansen, 1995, *Sedimentation in the Chattooga Watershed*.
¹² pg 37 "Guide to the Chattooga" Clay
¹³ Vos, Diana K., Ryder, R. A., Graul, W. D. 1985. Response of breeding great blue herons to human disturbance in northcentral Colorado. *Colonial Waterbirds* 8 (1) :13-22.
¹⁴ Kaiser, M. S., Fritzell, E. K. 1984. Effects of river recreationists on green-backed heron behavior. *Journal of Wildlife Management* 48 (2) :561-567.
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On page 53 The IR suggests "regulations regarding maintaining appropriate distances from wildlife." But never defines those distances. The recommended hundred-meter buffer zone between humans and nesting waterfowl¹⁵ would be impossible for boats to maintain when the Upper Chattooga's width averages between 12 and 50 feet wide.

Waterfowl populations decline as human activity near nesting and rearing sites increase. "When a nesting bird flushes off a nest due to disturbance it leaves the nest susceptible to predation."¹⁶

In 2004 the Forest Service noted that "riparian habitats, and forest interior habitats are the highest priority for management for migrating or breeding birds in the piedmont. Of particular interest is the recreation and restoration of water bird habitats in the piedmont for summer foraging, spring and fall migration, and wintering habitat for a wide variety of bird species."¹⁷ Increasing recreational pressures to this protected water habitat appears misaligned with current objectives.

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9.2 Trout Habitat: The Chattooga is at the upper limit for temperature considered suitable for healthy trout habitat. The numerous spring-feed tributaries choked with rhododendrons help keep the temperature cool enough throughout the summer to support fish reproduction¹⁸. An increase of water temperature of just a three degrees could result in large kills¹⁹.

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Unfortunately, the cooling rhododendron canopy would require removal for boats to pass through these tight tributaries thus increasing overall water temperature. The current no boating policy protects these smaller tributaries that terminate into the Chattooga. This indirect impact requires review under the protect & enhancement of the protected biology OR values then under Section 10a of the WSR Act which mandates protection of biological values above recreational demands.

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10.0 SOCIAL:

The Appeal Decision acknowledged, that the "2004 RMLMP ...allocates portions of the forest into management areas that reflect biological, physical, watershed, and social differences." While one Sumter management goal is to "offer diverse recreational opportunities"²⁰ The Sumter Forest objectives are not to manage resources homogeneously to enhance only one form of recreation.

In addition the agency is required to "initiate social effects analysis when the potential effects of agency policies or actions are important to the decision."²¹ Loss of solitude, swimming behavior, and fishing disturbances on the Chattooga have not been reviewed beyond the desired conditions workshop and stakeholder meetings. Review of that data indicates tolerances by current Chattooga visitors.

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10.1 River versus trail encounters:

Visitors are less sensitive to encounters along their route than to those at an attraction site, or destination²². The integrated report attempts to combine river and trail encounters as if they were equal; this is simply not accurate. To a boater the river is just a water trail but to most other visitors types- swimmers, anglers etc. -- the river is the attraction site. Therefore foot travel visitors will be

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¹⁵ Rodgers, James A., Smith, H.T. 1997. Buffer zone distances to protect foraging and loafing waterbirds from human disturbance in Florida. Wildlife Society Bulletin 25 (1) :139-145.

¹⁶ Kelly, L.M. 1992. The effects of human disturbance mitigation on common loon productivity in northwestern Montana. Maine Audubon Society,

¹⁷ 3-215 Sumter 2004 FEIA

¹⁸ Influence of riparian alteration on canopy coverage and macrophyte abundance in Southeastern USA blackwater streams. Fletcher, Wilkins, McArthur and Meffe, Ecological Engineering 15 (2000) S67--S78. 1999

¹⁹ Spatial Modeling to Project Southern Appalachian Trout Distribution in a Warmer Climate Flebbe, Roghair & Bruggink. American Fisheries Society 135:1371-1382, 2006

²⁰ Sumter Forest Service RMLMP 2004

²¹ PSH 1909.17 also FSM 1970

²² Lime, Manning & Freimund. 1994. Indicators and Standards of Quality for the Visitor Experience at Arches national Park

more sensitive to river encounters since the river is their "attraction site". This sensitivity to river encounters were documented at the December 2005 Chattooga stakeholder meeting when anglers, day hikers, birders and front-country users all voiced their opinion collectively of "no boats" and "few encounters". For backcountry anglers the desired number of boat encounters was zero.

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The Upper Chattooga ranges from a tight stream to a wide creek; encounter sensitivity for foot-travel visitors will vary according to the change in topography and expectations based on the distance hiked to reach a secluded spot.

10.2 Page 23 noted "boaters value the same attributes as other upper river users: a sense of remoteness, spectacular scenery, and few traces of human use. In addition, they are focused on the challenge of running whitewater."

Most recreational activities have been found to value "remoteness" and "scenery" including Snowmobiles within Yellowstone Park and Mountain bikers in Mohab, UT. Along with boaters, all these groups can enjoy the Upper Chattooga on foot so that everyone can continue to value that feeling of solitude and backcountry remoteness. Restricting all travel aides (kayaks, bikes ATV's etc) assures no one group easier access to the most remote wilderness and maximizes habitat protection. The **foot-travel-only policy** is what is best for the resource and visitor equity.

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Missing from the 2003 NPS/AR report, referenced on IR pg 23, is that most of the lower river boaters indicated that their "desired wilderness experience" was already available on the lower river. Therefore, it is unnecessary to further degrade the riparian banks and river experience to also include the Chattooga.

10.3 Encounters:

The IR report continues to indicate that the addition of any single user type would create a linear increase in the number of encounters; This statement is false. One helicopter would be seen by far more visitors because its' travel route is highly visible and a single motor-cross rider traveling at a much quicker speed would have far more trail encounters then would one more hiker. Similarly, a boat traveling down the watercourse will encounter far more foot travel visitors at the river's edge than would one additional hiker. Each activity alters the quantity of encounters uniquely. Mr. Whittakers repeated comparison of boater-to-boater data from his partner's Grand Canyon floating trip study is irrelevant to estimating encounter on the Upper Chattooga with multiple access locations and with many dispersed visitors.

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The Integrated report uses the relative terms *unlikely* or *rare* 54 times without any quantifiable data supporting these relative descriptors for number of encounters. Since the chance of a single boater passing each point along the river is 100%, the probability of encounters is completely related to current user levels. Since no quantitative data was collected, the adjectives suggest complete pontification.

10.4: The Spice of Life

Boat restrictions at highway 28 have protected and enhanced all recreational OR values along the Chattooga. The Chattooga currently offers a variety of recreational opportunities for many types of visitors. Uniform management policy, that enhances one activity at the expense of others, does not result in an equitable policy for all users. Paddlers already experience protection on the lower Chattooga from motorized watercraft; foot-travel visitors deserve similar protection up river. The

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agency should be viewing management policy within the geographical area with an absolute minimum review of all recreation OR values along the entire Chattooga Wild & Scenic Corridor.

The 2004 Sumter Forest management objectives²³ outline the need to offer diversity in recreational opportunities by varying policy throughout a resource. The IR's exclusive focus on recreating on the Upper Chattooga discounts the excessive boating activity that has already monopolized use on the lower Chattooga and reportedly displaced other users.

The 1976 compromise that forced foot travelers to cede 2/3rds of the river to the explosive growth in whitewater boating appears to have been discounted completely in review of currently available opportunities.

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An alternative policy thirty years ago would have resulted in a different Chattooga. What if angling was enhanced on the lower river and boating relegated to section IV. This would have made the Chattooga a fly-fishing Mecca of the Southeast in place of boating. Continued stocking below the bridge with access for motorized angling fishing skiffs would have resulted in a very different Chattooga to what we have today. These "enhancements" may have resulted in an explosive growth in angling, but all at the expense of paddling. It is impossible to predict how an alternative policy thirty years ago may have altered visitor behavior but it is clear that policy can and does alter behavior. The 1976 compromise to enhance boating on the lower river at the expense of angling -stocking was eliminated and paddling grew unchecked- did not meet the "protect and enhance" mandate for angling. However, this is an egocentric view versus a balanced perspective on all recreation activities, that balanced perspective is what is needed now on the Upper Chattooga.

Protect and enhance mandates associated with OR values can not be viewed individually and requires collective assessment along with review of historic policy; the current policy considers both conflicting uses and offers opportunities for both activities.

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10.5 Opportunity "importance" was poorly researched:

Pg 26 of the IR noted that "Results led researchers to conclude that boaters' more frequent use may lead to stronger place bonds (Vagias, Powell, & Haynie, 2006)"

Comparing the lower river for boaters and entire river for angler (which already stopped stocking much of the river and is crowded with boats below 28) is not a rational comparison.

This survey would have provided a less contrived answer had it been conducted prior to USFS policy which encouraged boating and displacement many anglers from below the 28 bridge

10.6 Demographics: There is no data presented regarding the current participation rates for the various activities found along the upper Chattooga. According to the referenced Cordell study, Kayaking (the primary activity for private floaters) represents 3% of the population - and far fewer are creekers- while angling and birding represent 14% and 32% respectively. Oddly birding and associated trends are missing within the integrated report. Similarly, a visit for Scenery, the activity with the highest participation at 60%, is never considered.

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A more recent nation-wide survey indicates that there are 15.1 million Birders, 18.2 million fly-fisherman, and 2.2 million kayakers²⁴ and that only 250K kayakers have the expert skill required to run the headwaters. An equitably proportioned resource allocation system would have granted anglers and birders far more Chattooga corridor in 1976; policy need not further placate the boating minority.

10.7: Solitude

²³ 2004 Sumter FEIS

²⁴ Outdoor Recreation Participation Study™, For Year 2004 Trend Analysis for the United States Published June 2005

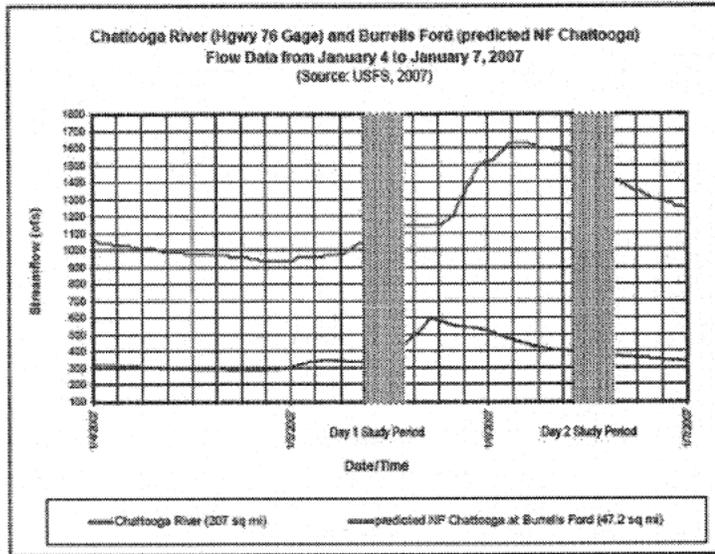
A current assessment of "opportunities for solitude", included in the Wilderness Act ²⁵, were never reviewed in the IR. The Sumter Forest Supervisor was quoted in a USFS press release as stating "Before making that final decision, we feel it is important to collect site-specific information about flow levels and the solitude experience many recreation users have told us is important to them." ²⁶ The only data collected on the "solitude experience" was during the public hearings, stakeholder meetings and in public comments. Review of the public record clearly indicates the high value of solitude held by stakeholders and that should be added to the EA.

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11.0 Expert Panel Hydrology Information

The Integrated report indicated that the river peaked at 1,400 cfs during the expert panels. Yet the Expert Panel published chart²⁷ to the right indicates the river peaked above 1,600cfs which is above the 96% of water levels using the historical USGS records.

The Integrated Report published the flow range for the first day of boating as "between 340 and 400cfs" at Burrells Ford. Yet the published chart indicates the river was above 450cfs as the boaters completed their run.



The IR indicates the 76 gauge was at 2.3' for the second day and the USFS reported the 76 gauge at 2.6 feet in their January 2007 press release. According to the published chart on flows the second day remained above 1400cfs (2.6') during the entire study and measured 1550cfs when the boaters put-in on the Chattooga Cliffs. Water level at the 76 gauge was still above the 95% during the Chattooga Cliffs launch.

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Boating panel members were asked to estimate "acceptable flow ranges" relative to the single flow boating assessment -which already required speculation given the lack of boating history. The conflicting reports on what the actual flow levels were during the trials add more uncertainty to the estimated boatable ranges. Mr. Whitaker warns of single flow assessment accuracy and even American Whitewater published that the study is flawed.

By homogenizing the anecdotal angler survey data over the entire 21-miles, the Integrated Report fails to acknowledge that the upstream diminishing flow levels will alter visitor behavior. Angler's reportedly unfamiliar with the Chattooga Cliffs reach could only use their historic reference for angling in SC to assess fishable flows on the NC Chattooga Cliffs reach. Using the logic within the entire IR report, that use patterns vary by water level, it follows the upstream flows would accommodate angling more often. The angling flows at Grimshawes Bridge-which are 15% of those

²⁵ Wilderness Act section 2

²⁶ Sumter USFS Press Release, Feb. 03 2006 R&S 470038-1

²⁷ Chattooga River; Expert Panel Field Assessment Report pg 14 (Source: USFS, 2007)

found at Highway 28- can not be evaluated based on flows 20 miles downstream. The ability to fish during much higher flows- above the 98%- near Grimshawes bridge is exactly what the forty years of actual use data submitted by WCA indicates.

Webster's defines *Anecdotal* as being "based on personal experiences or reported observations unverified by controlled experiments." Outside of the single days flow, the entire *Integrated Report* published flow ranges for boating and angling based completely on anecdotal reports. From expert anglers, the collected data was based on personal history using the gauge at 76. Published boatable ranges were completely speculative since the boating panel had no history of using the Upper Chattooga and no history was available from the recently installed temporary gauge at Burrell's Ford.

12.0 Adoptive Management:

The idea of adoptive management is controversial²⁸ especially when incomplete baseline data exists for wildlife and visitor use. A commitment to an adoptive management approach is time consuming an expensive.²⁹ If used the USFS should be realistic about their ability to manage and pay for such an expensive experiment by limiting its' scope within resource and budgetary constraints.

A common footnote throughout adoptive management summaries is that inadequate baseline data required to measure impacts are not available. Please do not turn the Chattooga into an *ad hoc* social experiment.

Any valid experiment requires a control left untouched to measure impact against, the North Fork could remain that control. Partial limitations on boating elsewhere could evaluate the beneficial impact associated with limiting boat access. Restriction benefits could all be measured without impacting the WSR resource or experience found on the upper Chattooga. Consider partial limitations on the Lower Chattooga or closing the West Fork to all boating for a decade to record the benefits on the environment and angling. A review of limitation benefits elsewhere would be superior to considering how "much" impact will result from adding boating to the Upper Chattooga. Please do not experiment with such a rare and unique resource.

In conclusion:

The Appeal Decision consolidated the entire AW appeal into two contentions, the illegality of the restrictions and lack of support data.

The claim that use limits are illegal has been proven false in the *Chattooga Literature Review* and from numerous case law including U.S. v. Hells Canyon Guide Service, Inc., 660 F. 2d 735, 737 (9th Cir. 1981) and U.S. v. Lindsey, 595 F.2d 5, 6 (9th Cir. 1979)

The Appeal Decision noted AW "*contends that there is a lack of data or studies in the record to support the decision*"; this was clearly the rational for demanding a Visitor Use Capacity study in the remand decision. Three years later and with considerable effort and resources, the Capacity analysis still offers no definitive conclusion for many stakeholders' publicly voiced concerns as we stumble into the NEPA process.

"*The determination that the scope of an EIS is proper is important to the required determination whether the agency in good faith objectivity has taken a hard look at the environmental consequences of a proposed action and at alternatives to that action*"³⁰ We contend the scope of analysis has

²⁸ Haas 2004

²⁹ *A Reframing Of Visitor Capacity - park capacity* Haas, 2001

³⁰ *Save Our Sycamore v. Metropolitan Transit Auth.*, 576 F.2d 573, 575 (5th cir 1978).

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avoided a hard look at resource impacts and only studied angler and boater water flow preferences. The agency can therefore only draw a rational conclusion on that specific topic. The study found that boating and angling flow preferences overlap resulting in an asymmetric conflict. This validates the original 1976 policy that was repeated in 1980, 1985 and 2004 which protects angling above Highway 28 and is defined as the "no action alternative" or status quo.

To alter the status quo, the USFS must prove why 30-year zoning is no longer necessary to protect the environment and ORVs [E.g., 5 U.S.C. §556(d); *Minn. Milk Producers Assc. v. Glickman*, 153 F.3d 362, 642 (8th Cir. 1998)]. Without the hard look at impact to all users or to the resource, the long-standing protective restrictions on the Upper Chattooga must remain intact.

Thank you for your time and consideration to these key issues.

Sincerely,

Mike Bamford

Michael Bamford
Cashiers, NC
Member Whiteside Cove Association
Member Friends of the Upper Chattooga

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Visitor Use Capacity Analysis, Upper Chattooga River
USFS Public Hearing - 7/10/2007
Verbal Comments by Doug Adams, Rabun Gap, GA

The Forest Service asked: How would the upper Chattooga be managed if you were managing it?

First I would address 2 Current Concerns:

- 1 1. The North Fork needs more attention from law enforcement due to the ever-increasing lawless activities (including vehicle break-ins, theft, drug problems) 130
- 2 2. Education efforts are needed to encourage appropriate recreational behaviors that minimize impacts 32

In deciding management strategy, I would keep in mind:

- 3 1. Forest Service streams are managed to emphasize and recruit large woody material. The Report said "In many cases, user groups may remove hazardous LWM --" 64
- 4 2. For a recent 3-year period (2003 -05) the water gauge read over 1.8 feet for 79% of the time (862 days). 120
- 5 3. Half the headwaters are already zoned to accommodate "creeking" activity in the West Fork watershed. 131
- 6 4. Lower river boating has displaced other visitors wishing to avoid conflicts and interference while seeking solitude and quietness. 115
- 7 5. The report said Chattooga recreation is likely to increase in excess of 20% over the next decade and whitewater boating and fly fishing may increase at even higher rates. 107

(Quote from the Report) "Agency staff use professional judgments to determine which characteristics are unique, rare or exemplary at a regional or national scale so as to qualify as outstandingly remarkable"

8 The North Fork is unique and has local and regional value: There is nowhere else anglers can go in the East that has the size to permit quality fly-fishing in a spectacular backcountry setting that is free of boating interference. Because of the unique backcountry experience, in 1999 the North Fork was named one of the 100 best trout streams in the nation. 132

9 I would manage the Chattooga to protect and enhance the ORVs. I would establish Limits of Acceptable Change on all segments of the Chattooga, including the West Fork headwaters, to insure that the "wild" sections will remain unimpaired for future use as enduring backcountry with wildness, remoteness, and solitude intact. 25

10 In Closing: Some people are saying that the zoning of activities is discrimination. Zoning of conflicting activities is good stewardship, not discrimination. Stewardship encompasses far more than picking up litter; it includes the protection of the aesthetic values of natural resources such as remoteness and wildness, the proper regard for the rights of others to solitude, and the responsibility of preserving these values intact for future generations. 45

Visitor Use Capacity Analysis, Upper Chattooga River

USFS Public Hearing - 7/10/2007

Comments submitted by Doug Adams, Rabun Gap, GA

• What values / issues of local or national significance are important for the Forest Service to consider?

- 11 > Local issue: Presently the activities of boating, horseback riding, and trail biking are zoned away from Chattooga's North Fork river corridor. Only foot travel is allowed. If American Whitewater (AW) is successful in opening up the North Fork for unrestricted private boating, that will be "a foot in the door" for allowing other vehicular activities. (Pg 24 of the Integrated Report)
- 12 > Local & Regional value: The North Fork is unique. There is nowhere else anglers can go in the East that has the size and volume to permit quality fly-fishing in a spectacular backcountry setting that is boating-free. "Agency staff use professional judgments to determine which characteristics are unique, rare or exemplary at a regional or national scale so as to qualify as "outstandingly remarkable" (IWSRCC, 1999, pp. 12-15; IWSRCC, 2006, p. 17)." (Excerpt from page 7 of the Integrated Report)
- > Local, Regional, & National value: Because of the unique backcountry experience, in 1999 the Chattooga's North Fork was named one of the 100 best trout streams in the nation. "When recreation is an OR value (as on the Chattooga), the IWSRCC recommends protecting regionally or nationally significant recreational attributes while avoiding adverse effects on non-recreation OR values (IWSRCC, 2007, draft p. 5)." (Pg 8 of the Integrated Report)
- > National issue: However this issue is resolved it will be precedent setting with far reaching consequences into the future and across all federal agencies that manage and zone recreational waters.
- 13 > National issue: It appears AW intends to do whatever is necessary to overturn the zoning of the Chattooga in order to establish a legal precedent needed to mount a court challenge in their 20-year struggle to open the 400 miles of Yellowstone NP streams to whitewater boating.

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• Keeping in mind your answer to the above and realizing that various resources (water quality, wildlife, recreation, etc.) must be weighed together, how would the upper Chattooga River be managed and what would it look like if you were managing it?

- 14 > Aquatic habitat: I would keep in mind that Forest Service streams are managed in a manner that emphasizes and recruits large woody material (LWM). A variety of aquatic species depend on natural accumulations of trees, branches, and root wads known as LWM. (Sumter Forest Plan, page 3-41) (Pg 55 of the Integrated Report)
- > Experiential, Recreational, & Aquatic habitat: I would keep in mind the management prescription for the "wild" segments of the Chattooga River: "These segments of the Chattooga River (wild) are the most primitive and remote. Management of these segments is focused on protecting the outstandingly remarkable values of the river and preserving the natural environment and natural processes from human influences." (Quote from CONF Forest Plan, pg 3-26)
- > Aquatic habitat: I would keep in mind this excerpt from page 56 of the Integrated Report, "In many cases, user groups may remove hazardous LWM (Blevins, 2007). There appears to be tacit agency support for some of these efforts, but sometimes there is no agency consultation and formal agreements are rare." (For Blevins 2007 http://www.denverpost.com/search/ci_5841457)
- 14 > Recreational: I would keep in mind that the chart on page 80 of the Integrated Report says technical boating could occur down to 1.8 feet and for a recent 3-year period (2003 - 2005) the gauge reading was over 1.8 feet for 79% of the time (862 days).
- > Recreational: Keep in mind that headwaters boating (creeking) is a relatively new whitewater sport and still growing in popularity. Creeking is made possible by the application of new hi-tech materials to creative new boat designs. It is part of the explosion in popularity of "extreme" sports. (Pg 22 of the Integrated Report)

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- 15 > **Recreational:** I would keep in mind that half the Chattooga headwaters are already zoned to accommodate "creeking" activity in the West Fork watershed. (Pgs 35 & 36 of the Integrated Report) 131
- 16 > **Recreational & Experiential:** I would keep in mind that boating on the lower Chattooga (both unrestricted private and commercial) has displaced other visitors wishing to avoid conflicts and interference while seeking solitude and quietness. (Pgs 15 & 69 of the Integrated Report) 115
- 17 > **Recreational:** I would keep in mind that page 96 of the Integrated Report states "Separating uses by space (zoning) is among the most common ways of addressing use conflicts in land-based settings." "In river settings, segment zoning is also common, particularly for separating motorized and non-motorized uses (dozens of WSRs or segments have been designated non-motorized)." 45
- 18 > **Recreational:** I would keep in mind that Sumter NF has received 423 personal comments (not including those from organizations) and 60% were not in favor of unrestricted boating.
- 17 > **Recreational:** I would keep in mind that "recreation use trend information suggests that Chattooga use is likely to increase at the rate of population increases for the region, which may exceed 20% over the next decade. Within that general increase, however, some activities may increase at slightly higher rates (e.g., frontcountry recreation, day hiking, whitewater boating, and fly fishing), while others may grow more slowly (e.g., frontcountry fishing, backpacking)." (Excerpt from pg 40 of the Integrated Report) 107
- 17 > **Recreational:** I would keep in mind there is absolutely nothing in the Wilderness Act and/or the Wild and Scenic Rivers Act that says all compliant activities must be permitted in all segments of the river. 45
- 19 > **Recreational:** I would keep in mind that once an activity is established it is very hard to change it.
- > I would manage the Chattooga River to protect and enhance the outstandingly remarkable values (ORV) which caused it to be designated a National Wild and Scenic River (WSR). (Pg 7 of the Integrated Report)
- > I would manage the "wild" segments to preserve the natural environment and natural processes from human influences.
- > I would establish and manage Limits of Acceptable Change (LAC) on all segments of the Chattooga, including the West Fork / Overflow Creek headwaters, to insure that the "wild" sections will remain unimpaired for future use as enduring backcountry with wildness, remoteness, and solitude intact. 25

• **What are the benefits (environmental, social, recreational, economic, etc.) that your vision provides?**

- 20 > **Economic:** Zoning boating away from the Nicholson Fields Reach during DH season would benefit the local economy. I believe if out-of-town DH anglers experienced interference from boating, some will be displaced to DH streams in NC. (Pg 96 of the Integrated Report) 108
- > **Recreational:** I believe the North Fork's recreational ORV includes wildness, remoteness, and solitude in a foot travel only backcountry setting. The WSR Act requires that the Chattooga be managed to protect and enhance the ORV of recreation. That would be a benefit derived from establishing and enforcing the LAC.
- > **Experiential:** The Wilderness act requires the Ellicott Rock Wilderness be managed so as to provide "future generations the benefits of an enduring resource of wilderness", "unimpaired for future use as wilderness", "preservation of wilderness character", and "solitude", not unrestricted recreation. That would be a benefit derived from establishing and enforcing the LAC. I
- > **Environmental & Experiential:** The Sumter Forest Plan management emphasis for the Ellicott Rock Wilderness "is to allow ecological and biological processes to progress naturally with little or no human influence or intervention, except the minimum impacts made by those who seek the wilderness as a special place that offers opportunities to experience solitude." That would be a benefit derived from establishing and enforcing the LAC.
- > **Recreational:** The present management plan of the Chattooga headwaters almost equally divides the backcountry. The West Fork / Overflow Creek is zoned to allow boating and does

not have a backcountry foot trail paralleling the stream and the North Fork is zoned for foot travel only with a backcountry trail paralleling the stream.

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- **Social:** This management arrangement of the headwaters has the benefit of providing for a variety of activities without creating recreational conflicts.
- **Future:** I believe the benefit of incorporating LAC with the present management plan will protect and enhance the ORVs of recreation and preserve for future generations the unimpaired backcountry solitude and wildness.

• **What current or potential environmental effects are you concerned about?**

Current Social Concerns:

- 21 ➤ **Law Enforcement:** The North Fork needs more attention from law enforcement due to the ever-increasing lawless activities (including vehicle break-ins, theft, drug problems, biophysical regulation violations, fish & game violations, etc). 130
- 22 ➤ **Education:** Education efforts are needed to encourage appropriate recreational behaviors that minimize impacts (i.e. "leave no trace" or low impact camping practices, encounter etiquette, dispersed use, bank trampling, appropriate distance from wildlife, etc). The North Fork needs another "River Ranger" like it had 25 years ago. 32

Current Biophysical Concerns:

- 23 ➤ **The overuse and abuse** of the Burrell's Ford frontcountry and the Ellicott Rock Wilderness from Burrell's Ford to the East Fork (SC side). 88
- 24 ➤ **Campsites** that are too close to trails and streams. Poor conditions of some campsites. 51
- **The huge erosion site** about 1/3 mile upstream of the Warwoman Road Bridge on the West Fork. In this "recreation" segment the north bank, about 20 feet high, continues to cave off into the stream. (See photo at the end of this document)

Potential Social Concerns:

- 25 ➤ **User conflicts** in the North Fork backcountry (if unrestricted boating is permitted). The loss of backcountry solitude for foot travel visitors and angling interference (including reeling in, moving out of the way, and spooking of trout) during overlapping of activities (angling – boating) between water levels of 1.8 feet and 2.8 feet. (Pgs 67, 80, and 85 of the Integrated Report) 114,43
- 26 ➤ **Future growth of "creeking"** activities (if unrestricted boating is permitted). The demand by boaters for "unlimited use" at any water level, any time, and any number of boats equals "unlimited growth" potential. (Pg 40 of the Integrated Report) 120
- **Future growth of extremely low flow boating** (what boaters call ELF) if unrestricted boating is permitted. Visit <http://www.boatertalk.com/forum/BoaterTalk/1289388>
- **Less-skilled boaters** if unrestricted boating is permitted (including some trout anglers with float tubes, personal pontoons, and/or open cockpit kayaks) between Burrell's Ford and Highway 28 at water levels lower than 2.0 during the warmer water months of April through October. (Pg 23 of the Integrated Report)
- **Private inflatable rafts:** The unrestricted boating demanded by AW includes private inflatable rafts such as inflatable kayaks and/or pack rafts. Inflatable boats enable ELF boating. Visit <http://riverlog.blogspot.com/2005/08/elf-boating-little-white-salmon.html>. Private rafting is often done by less-skilled boaters (see rental boats below).
- **Rental boats and shuttle services:** Although commercial guided rafting will not be authorized, there will be no way to prevent people from renting boats and hiring a "taxies", which are certainly commercial activities. AW agrees these are commercial uses when they wrote a letter to the USFS on 6/10/02 about the lower Chattooga boating. In the letter AW explicitly acknowledged that commercial users (renters) are less skilled than people that own their own boats. The following are excerpts from that letter, "Other commercial users - the shuttle clients and/or rental customers of any other special use permit holder such as a shuttle permit or any entity that advertises to rent equipment on the Chattooga River. In general this group of users are less skilled, less aware of their impacts on the river, and are more prone to needing public search and rescue services." "Shuttle permits are generally issued to the companies that also rent inflatable kayaks or other river craft and commercially promote and encourage river use." "There are no restrictions on the number of craft a company can rent."

- 27 > Rudeness by new generation if boating is permitted on the North Fork while anglers are present. Most boaters are not members of AW and the AW "Share The River Recommendations" are not practiced by some of the newer generation of skilled whitewater boaters (brash and rude, loud talking, hollering, beaver slaps with their paddles, obscene gesturers, etc). (Pg 69 of the Integrated Report)
- 65 > Noise: When I encounter boaters "poaching a run" on the North Fork, I almost always hear them talking or hollering or hear their hard boats bumping rocks before I see them, even when I'm on the trail. Noise will invade the backcountry solitude experience if unrestricted boating is permitted.

Potential Biophysical Concerns:

- 28 > River aquatic habitat: Large woody material (LWM) has incredible ecological importance in river systems. For decades a few insensitive but otherwise skilled boaters have made a practice of removing the LWM that hinders their passage in headwater streams, such as the Chattooga's West Fork / Overflow Creek headwaters. (Pg 55 of the Integrated Report)
- 64 > Boating on the North Fork tributaries: If granted unlimited access, some boaters have expressed their intensions to begin floating the tributaries as they do in the West Fork headwaters. As a tribute to the protection afforded by the present zoning, North Fork tributaries such as East Fork and Reed Creek have preserved large quantities of LWM with much more coming in the future from dead and dying hemlocks. Boaters must not be allowed to cut passage trails in the LWM on these tributaries. (Pg 55 of the Integrated Report)
- > Deterioration of the Big Culvert area of Overflow Creek before it is included as a "wild" segment in the proposed 3-mile WSR extension.



• The Forest Service can make changes to the land, the way people use the area, or how it is administered. What changes would you recommend the Forest Service make in current management of the upper Chattooga River to ensure your vision succeeds?

- 29 > Install and effectively enforce LAC on the entire Chattooga, including the West Fork / Overflow Creek segment. 51

• What alternative or alternatives to current management would you recommend that, in your opinion, would best respond to all the various public interest while maintaining the outstandingly remarkable values of the Chattooga Wild & Scenic River?

- 30 > I support a "no action" alternative that retains the "foot travel only" zoning for the North Fork backcountry. 49
- 31 > With a Forest Service commitment to a North Fork River Ranger (and effective Law Enforcement), I would consider accepting an alternative that would separate activities by river level (with an on-line Burrell's Ford gauge), that would cap the maximum number of boats / day in each section by a limited number of daily permits for hard boats only, that would permit cold weather boating only (to eliminate the non-skilled warm weather boating), and no boating in the DH segment.

• Other issues/comments/suggestions concerning the upper Chattooga River.

- 32 > Suggestion: Effective North Fork law enforcement and an education program by a River Ranger is needed as soon as possible to address lawlessness and resource abuse activities. 130
- 33 > Suggestion: Maintaining the separation of conflicting activities is doing what is best for the future of the Chattooga's North Fork. 49
- 34 > Issue: Unrestricted creeking use has the potential for growth and conflicts. 120
 Headwaters boating (creeking) is a relatively new whitewater sport. It was made practical for a larger number of boaters in the mid 1990s by the application of new hi-tech materials to creative new boat designs. It is part of the explosion in popularity of "extreme" sports. In October of 1999, American Whitewater (AW) told the Forest Service that boaters should be allowed to run the North Fork when the Highway 76 gauge reads above 2.6 feet; in 2002 they lowered it to 2.0 feet. The chart on page 80 of the Integrated Report says technical boating could occur down to 1.8 feet. Future equipment improvement may make it possible to boat

Chattooga's North Fork at much lower stage levels, so now AW is demanding "unrestricted use."

In 1999, AW estimated the North Fork is "...unlikely to receive more than a couple hundred boating visitors per year." Page 37 of the Integrated Report now estimates an average weather year will bring 1800 to 2400 segment user days per year (including scenic boating) with a peak of up to 70 in one day through the Ellicott Rock Wilderness.

In 2004 the Forest Service stated, "Also, as mentioned earlier, not all boaters will conform to the water level assumptions in this analysis. Some may attempt to float the river at lower levels (this is particularly true below the Burrell's Ford Bridge). Additionally improved technology and equipment in the future may facilitate low water boating, and could thereby increase the number of undesired encounters and the potential for conflict." (Excerpt from page H-16 of Sumter NF Plan). That low water boating now has a name; it is ELF boating (extreme low flow).

Keep in mind that "recreation use trend information suggests that Chattooga use is likely to increase at the rate of population increases for the region, which may exceed 20% over the next decade. Within that general increase, however, some activities may increase at slightly higher rates (e.g., frontcountry recreation, day hiking, whitewater boating, and fly fishing), while others may grow more slowly (e.g., frontcountry fishing, backpacking)." (Excerpt from pg 40 of the Integrated Report)

What will be the increase in "creeking" in another 20 years? What will be the growth in ELF boating? Just look at the present concerns in the lower Chattooga where growth in boating activities has resulted in recreational conflicts (anglers vs. boaters, private boaters vs. commercial boaters, private boat owners vs. rental boaters, and boaters vs. horseback riders). Whitewater floating activities (both unrestricted private and commercial) has displaced other visitors who want to avoid conflicts and/or interference while seeking solitude and quietness. (Pgs 15 & 69 of the Integrated Report)

Don't bring conflict to the North Fork. Manage the North Fork for future generations. Manage the North Fork to protect and enhance the outstandingly remarkable values (ORV) which caused it to be designated a WSR, including wildness, remoteness, and solitude in a foot travel only backcountry setting.

"Section 10(a) of the WSR Act directs management to protect and enhance free-flowing conditions, water quality, and OR values, but allows other uses as long as they do not "substantially interfere with public use and enjoyment of the river's values." Only after the river's free flow condition, water quality, and OR values are protected and enhanced can other uses (e.g., grazing, new recreation development) even be considered under the "substantially interferes" clause (IWSRCC, 2007 - draft p. 3). Congress left the judgment of when a use "substantially interferes" to the discretion of the river managing agency." (underlining added) (Quote from Pg 7 of the Integrated Report)

- > **Comment:** Some people are saying that the present Chattooga management of activities is discrimination. Zoning of conflicting activities is good stewardship, not discrimination. Stewardship encompasses far more than picking up litter; it includes the protection of the aesthetic values of natural resources such as remoteness and wildness, the proper regard for the rights of others to solitude, and the responsibility of preserving these values intact for future generations.

"When recreation is an OR value (as on the Chattooga), the IWSRCC recommends protecting regionally or nationally significant recreational attributes while avoiding adverse effects on non-recreation OR values (IWSRCC, 2007, draft p. 5). This recognizes the need to balance recreation with other values through the Comprehensive River Management Plan (CRMP). When two or more types of recreation are defined as part of a broader OR recreation value, the IWSRCC recommends balancing the attributes that made each type regionally or nationally significant (IWSRCC, 2007, draft p. 5). Similar to balancing between OR values, the river-administering agency is required to "address...user capacities" consistent with protecting the desired experience and other non-recreation values." (underlining added) (Quote from Pg 8 of the Integrated Report)

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A Current Biophysical Concern:
(see page 2 of these comments)

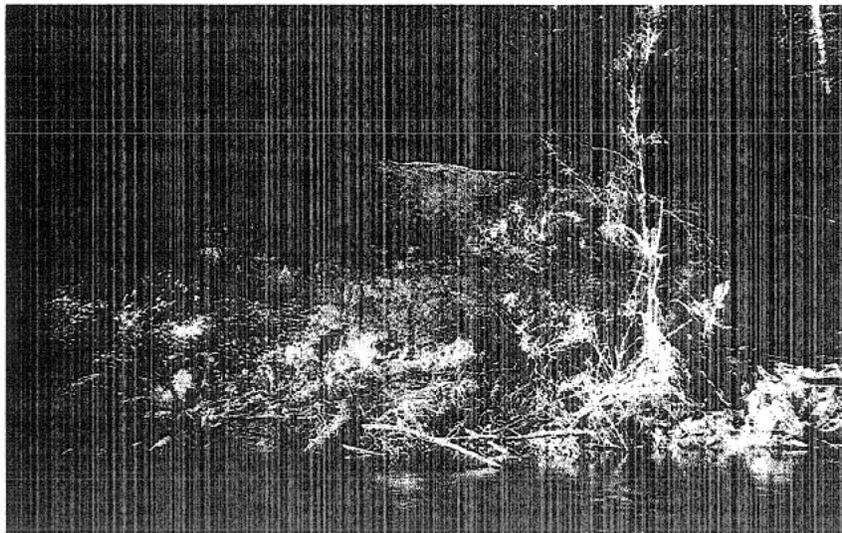
The following is a reprint from the December 2005 issue of the Rabun TU Chapter newsletter, TIGHT LINES. Click <http://www.rabuntu.com/Rabun%20TU%20-%20TIGHT%20LINES%20December%202005.htm> To date no effort has been made to stabilize this bank. I find it curious that it was not listed as an "Erosion Site" in the recent biophysical survey (click <http://www.fs.fed.us/r8/fms/forest/projects/bio-physical-20070601.pdf> see page 9 of 14).

Unstable Bank on the "recreation" segment of the West Fork:

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On the West Fork of the Chattooga River, about 1/3 mile above the Warwoman Bridge, there is a high bank that continues to wash and caving off into the river. The Forest Service recently closed several dispersed campsites just upstream of the bridge. They tank-trapped the road, replanted the areas, and stabilized foot trails down to the river. And yet, no attempt has been made to stabilize this high bank about 200 yards further upstream (which is out of sight of the road and bridge). We first reported this situation to a Forest Service employee 3 or 4 years ago and so far no protective action has been taken. This picture was made on October 3rd (2005) of this year and was given to the District Ranger on November 17th (2005).

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July 10, 2007

Mr. John Cleeves
United States Forest Service

#19 216

Dear Mr. Cleeves:

I would like to address two points regarding the possible opening of the Chattooga headwaters to paddlers.

1. Importance of the headwaters to South Carolina trout anglers. South Carolina has much fewer miles of fishable trout water than our neighbors, Georgia and South Carolina. Of the rivers in South Carolina visited by the state's trout anglers, the Chattooga is the most important. Because of its size, anglers can disperse and experience solitude and the unique beauty of the area. Also, the chance of catching a trophy trout is higher. As shown by polls, South Carolina anglers, and in particular back country anglers, consider the Chattooga the premier trout fishery in the state. Back country anglers are overwhelmingly flyfishers who treasure solitude and wild trout, unlike front country anglers who primarily fish for stocked trout and are more tolerant of crowding. The reach above Burrell's Ford Bridge is a wild trout fishery. Based on anecdotal evidence, wild trout are more wary and susceptible to disturbance, and increasing the traffic on the river will invariably reduce the catch rate. If the headwaters are opened to paddlers, depending on the intensity of the activity, some or many of these backcountry anglers will be displaced. Unfortunately, there aren't any rivers in South Carolina that can substitute for the Chattooga. I would like to USFS to adopt a goal of "no displacement" of current users of the Chattooga headwaters in developing their new management plan.

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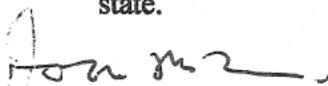
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2. Preservation of wildlife refuges and wilderness character. There are two reaches of the headwaters that currently have no road or trail access: the Rock Gorge area and the Bull Pen Road to Ellicott Rock reach. Opening these reaches to boating essentially creates a new trail, which will be a major change from the current conditions. Lacking sufficient study of the wildlife in these two areas, one would assume that the lessened chance of human contact as currently exists would make these areas important refuges for wildlife. Of most importance in my view is the Bull Pen Road to Ellicott Rock reach which lies in the designated wilderness section of the forest. In order to protect the wilderness character of this area, minimizing human intrusion should be a priority. I would like to recommend that, in the absence of further studies on wildlife impacts, that the USFS adopt the policy of "no degradation" in these two reaches, and maintain the current trail-less state.

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Tom McInnis
South Carolina Trout Unlimited